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Compilation on Zambia

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of the information contained in the reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies

2. In 2016, the Committee on the Rights of the Child recommended that Zambia consider ratifying the Convention on the Law Applicable to Maintenance Obligations of 1973,[1] and that it ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure,[2] the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Rights of Persons with Disabilities,[3] and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.[4]

3. The United Nations country team noted that Zambia had not ratified the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.[5]

4. A human rights adviser to the United Nations resident coordinator and the United Nations country team had been deployed by OHCHR from 2014 to 2016.[6]

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III. National human rights framework[9]

5. The Committee on the Rights of the Child welcomed the adoption of the Constitution of Zambia (Amendment) Act 2016 and the audit and review of all child-related legislation and customary law through the Zambia Law Development Commission. It urged Zambia to implement that Act and adopt the Bill of Rights.[10]

6. The United Nations country team stated that the embedded Bill of Rights in Part III of the 1996 Constitution could not be amended through an Act of Parliament; that could only be accomplished through a national referendum. However, a referendum for that purpose held together with the 2016 general elections had failed to meet the required threshold with regard to voter turnout to validate the result. The proposed amendments to the 1996 Bill of Rights would have significantly enhanced the provision and protection of rights, particularly by including economic, social, cultural and special rights, as well as environment-related rights. The Constitution-amending process thus remained incomplete.[11]

7. The Committee on the Rights of the Child expressed concern that the Bill of Rights and the Children's Code Bill and their provisions regarding coordination had not yet been enacted.[12]

8. The same Committee urged Zambia to circulate and implement the National Child Policy and adopt the related National Plan of Action.[13]

9. The Committee expressed concern that the new Commissioner in the Office of the Commissioner for Children had not been appointed and that the effectiveness and capacity of the Office was limited by a lack of adequate human, technical and financial resources, as well as weak public awareness of its existence and mandate.[14]

10. In 2016, the Special Rapporteur on the rights of persons with disabilities recommended that Zambia conduct a comprehensive legislative review to fully harmonize the national legal framework with the provisions of the Convention on the Rights of Persons with Disabilities, including by revoking discriminatory provisions in the Constitution, the Penal Code, the Criminal Procedure Code, the Prisons Act, the Electoral Act and the Mental Disorders Act.[15]

11. The United Nations country team stated that the operations of the National Human Rights Commission were often adversely affected by the insufficient allocation of funds.[16]

12. In May 2017, the Special Rapporteur on the right to food stated that, as malnutrition was epidemic across most of Zambia, it was crucial that nutrition policies were comprehensive and targeted all forms of malnutrition, including micronutrient deficiency and obesity, and were adequately supported financially. Their impact should be assessed regularly based on relevant human rights indicators.[17]

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination[18]

13. The Committee on the Rights of the Child expressed concern that the principle of non-discrimination, particularly in relation to access to health and education, social and cultural practices, customary marriage disputes and inheritance, was not adequately implemented with regard to children belonging to the most vulnerable groups, such as girls, children with disabilities, children from religious minorities, children living with HIV/AIDS, migrant and refugee children, orphans and children born out of wedlock.[19]

14. The Special Rapporteur on the rights of persons with disabilities noted that discrimination based on HIV/AIDS status was widespread in Zambia.[20] For persons with

albinism, stigma and discrimination had an impact on their access to basic rights, such as health care and adequate housing.[21]

15. The United Nations country team stated that the public environment relating to lesbian, gay, bisexual, transgender and intersex persons remained largely hostile, particularly in some faith-based organizations. The Penal Code criminalized men having sex with men and anal sex in general. However, the National Aids Council, which managed the funds for capacity-building for key populations groups secured from the Global Fund to Fight AIDS, Tuberculosis and Malaria, had an adviser on lesbian, gay, bisexual, transgender and intersex persons.[22]

2. Development, the environment, and business and human rights[23]

16. In relation to large-scale agricultural industry, the Special Rapporteur on the right to food stated that it was vital that development plans took into account the true cost of export-orientated farming methods on human health, soil and water resources, as well as the impact of environmental degradation on future generations, rather than focusing on short-term profitability and economic growth. She highlighted the dangers of pesticide exposure for human health and the environment, and urged Zambia to ban the use of glyphosate, a highly toxic pesticide, in farming.[24]

17. The Committee on the Rights of the Child recommended the Zambia establish a clear regulatory framework for the mining industries operating in the country to ensure that their activities did not negatively affect or endanger environmental and other standards.[25]

B. Civil and political rights

1. Right to life, liberty and security of person[26]

18. While noting that no executions had been carried out since 1997, the United Nations country team stated that the death penalty had been retained in the amended Constitution. The United Nations country team encouraged Zambia to stimulate public debate on the death penalty with a view to its abolition.[27]

19. The Special Rapporteur on the rights of persons with disabilities stated that during her visit to Zambia in 2016, several persons with albinism had reported that they lived in constant fear of being attacked and killed for their body parts for use in witchcraft rituals by people who believed them to be ghosts or magical beings.[28]

20. The United Nations country team stated that most reported cases of torture involved the police or security officers in the course of their investigations as a way of obtaining confessions from suspects. Torture was not specifically criminalized in the Penal Code and as a result, physical forms of torture were often considered to be assault.[29] Zambia had ratified the Convention against Torture, but had not fully integrated the provisions of the Convention into the domestic legal framework. In 2013, the Government had commissioned the Human Rights Commission in collaboration with the Zambia Law Development Commission to draft a bill for that purpose, which was almost ready.[30]

21. The Committee remained concerned that police stations and prisons did not have separate cells for children, and that children were not adequately provided with education, health and recreation facilities. It urged Zambia to always separate children from adults in places of pretrial detention and in prisons.[31] It also urged Zambia to provide appropriate and adequate services and facilities in prisons for children staying with their incarcerated mothers.[32]

22. The United Nations country team stated that female inmates were disproportionately affected by poor sanitation conditions, as the correctional facilities in Zambia did not cater for the needs of women.[33]

2. Administration of justice, including impunity, and the rule of law

23. The United Nations country team stated that since 2015, the judiciary had initiated service-delivery orientation in the provision of justice, which had resulted in the reduction

of the backlog of cases in the Commercial and Supreme Courts. While some progress had been made in the High Court, a large backlog of cases remained in the Magistrates Courts.[34]

24. The United Nations country team stated that in 2016, pilot courts had been established in two provinces to fast-track the disposal of gender-based violence cases. That had enabled cases to be brought to trial in a timely manner and had reduced the number of cases that were withdrawn because of delays in the commencement of trials. Moreover, the expeditious conclusion of those cases reduced the opportunity to intimidate witnesses and victims.[35]

25. The Committee on the Rights of the Child remained concerned that children were not guaranteed legal representation and urged Zambia to ensure that the right of children to legal representation or other appropriate assistance was guaranteed and that the Legal Aid Board was adequately empowered with financial and human resources in order to establish a department for juvenile representation.[36] It also urged Zambia to provide the Department of Social Welfare with adequate financial and human resources to enable it to provide probation, aftercare services and a tracking system to monitor reoffending by juveniles.[37]

26. The same Committee remained concerned that the minimum age of criminal responsibility was set at 8 years and urged Zambia to increase it, in accordance with the Committee's general comment No. 10 (2007) on children's rights in juvenile justice.[38]

27. The Committee also remained concerned that detention of children was not used as a last resort and urged Zambia to ensure that detention was applied only as a measure of last resort, not for petty offences and for the shortest time possible, and was reviewed on a regular basis with a view to withdrawing it.[39]

28. The Committee expressed concern that during criminal proceedings, children who were victims or witnesses of crimes could be seen by the alleged perpetrator. It recommended providing protection to those children during the trial, including by not exposing them to the perpetrator, and repealing the legislation that allowed for the perpetrator to see them.[40]

29. The United Nations country team noted that in Zambia, customary law continued to coexist with statutory law. The dual legal system recognized Chiefs as custodians of tradition and culture with jurisdiction over customary law. Traditional courts were the main local and accessible mechanism for addressing disputes in many parts of the country. On matters of inheritance, where a deceased person had not left a will or where customary law was challenged, the Intestate Act was applicable. Consequently, increasing efforts were being made to ensure that the traditional courts and Chiefs could effectively guide communities on the provisions of statutory law that crossed into traditional or customary jurisdictions.[41]

3. Fundamental freedoms and the right to participate in public and political life[42]

30. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended decriminalizing defamation and providing for it in a civil code.[43] It also recommended enacting a law on freedom of information.[44]

31. The United Nations country team stated that the legal framework limited the extent to which the public could access information of public interest. The Access to Information Bill, which had been submitted to the National Assembly in 2015, but subsequently withdrawn, was expected to be back on the legislative agenda in 2017.[45]

32. In relation to freedom of assembly, the United Nations country team stated that there was generally poor public awareness of the provisions and the intention of the Public Order Act. For many years, it had been used to control and prevent access to public space rather than provide for the safe use of that space.[46]

33. While noting the measures taken by the Government to promote the empowerment of women, including the Zambian Women Parliamentarians Caucus, the United Nations country team recommended increasing the representation of women in leadership positions.[47]

4. Prohibition of all forms of slavery[45]

34. The Committee on the Rights of the Child was concerned at the increase in the number of children, especially girls and children in a disadvantaged situation, who were victims of commercial exploitation, including prostitution. It recommended that Zambia fully and effectively implement the Anti-Human Trafficking Act No. 11 of 2008 and ensure effective investigations into cases of sale, trafficking and abduction of children and the prosecution and sanctioning of the perpetrators.[49]

5. Right to privacy and family life

35. While noting that there was a formal adoption system in place, the Committee on the Rights of the Child recommended that Zambia promote and encourage formal domestic and intercountry adoptions in order to prevent the practice of informal adoption and protect children's rights.[50]

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work[51]

36. The United Nations country team stated that, while perpetrators of sexual harassment in the private and public sectors had been prosecuted, employers in such cases had not been held accountable for failure to protect women employees.[52]

2. Right to social security

37. The Special Rapporteur on the right to food stated that in 2017, social protection had received around 4.2 per cent of the national budget, a relatively low figure considering the levels of poverty and marginalization in Zambia. The National Social Protection Policy provided the policy and strategic framework for a comprehensive and coordinated social protection programme. The Social Cash Transfer Programme appeared to have made a significant impact, increasing the number of meals that families could eat per day. Continued, detailed and regular monitoring and evaluation of the National Social Protection Policy and the Social Cash Transfer Programme were imperative to determine their impact on nutrition.[53]

3. Right to an adequate standard of living[54]

38. The Special Rapporteur on the right to food stated that the impressive economic growth in Zambia had not translated into significant poverty reduction. Around 60 per cent of the population lived below the poverty line and 42 per cent were considered to be living in situations of extreme poverty.[55]

39. The Special Rapporteur noted that access to adequate and nutritious food continued to be a challenge across most of the country, with women and children in rural areas being the worst affected. Forty per cent of children under the age of 5 were stunted, which was of grave concern since the effects of undernourishment were irreversible. Pregnant women were particularly vulnerable to malnutrition. Poor nutrition of mothers before and during pregnancy and while breastfeeding had a direct impact on child development.[56]

40. The Special Rapporteur recommended extending the home-grown school feeding programme to cover the entire school population, including schools in remote areas and in refugee settlements.[57]

41. She noted that under the dual land tenure system, there was a lack of protection for smallholder farmers in terms of securing their access to land. In a situation where the protection of access to land was weak and large-scale land acquisition for commercial agriculture occurred, the Government's push to turn export-oriented commercial large-scale agriculture into a driving engine of the economy could risk pushing peasants off their land and out of production, which would have a severe impact on their right to food. The Special Rapporteur found that particularly worrying, considering that smallholder farmers

accounted for almost 60 per cent of the population and were dependent on land for their subsistence and livelihoods.[58]

42. She stated that the dual land tenure system had also resulted in a situation in which some landholders on State land enjoyed the full protection of their property rights, while those under customary tenure were essentially considered to be occupants or users and did not therefore enjoy the protection of their property and land rights. Under customary tenure, there was a lack of commonly agreed documentation to secure customary land at the family, village and chiefdom levels. The Special Rapporteur encouraged Zambia to adopt a gender-sensitive, inclusive national land policy based on human rights principles.[59]

4. Right to health[60]

43. The Committee on the Rights of the Child recommended that Zambia implement the revised National Health Policy and National Decentralization Policy, assess and follow-up on the National Health Strategic Plan 2011-2015, and provide it with an update on the legislation on the social health insurance scheme.[61]

44. The same Committee was concerned that health services remained inadequate in terms of coverage and quality. It recommended that Zambia strengthen efforts to allocate appropriate human, technical and financial resources for health care for children.[62]

45. The Committee was concerned that reported under-5 mortality, infant mortality and neonatal mortality rates remained high, and that under-5 mortality was largely a result of preventable diseases, including pneumonia, malaria, diarrhoea, anaemia and malnutrition. It recommended strengthening efforts to reduce infant and child mortality, especially by focusing on preventive measures and treatment, improved nutrition and sanitary conditions, vaccination uptake and the management of preventable diseases and malaria.[63] It also recommended strengthening health interventions for newborn babies, strengthening skilled birth attendance, achieving a higher rate of antenatal care visits and ensuring a sufficient number of functional emergency obstetric neonatal care facilities, particularly in rural areas.[64]

46. The Committee was concerned by the high number of teenage pregnancies and unsafe abortions, the lack of adolescent-sensitive and confidential counselling services and support, the difficult access for adolescent girls to reproductive health care and information, and inadequate functional emergency obstetric neonatal care facilities and untrained staff.[65]

47. The Committee was also concerned at the lack of information on mental health programmes and services for adolescents.[66]

48. The Committee expressed concern at the high prevalence of HIV/AIDS among children, particularly adolescents, and at the fact that girls might be particularly susceptible to infection owing to the belief that intercourse with a virgin cured infection and due to the persistence of unequal power relations between men and women, which might hamper the ability of women and girls to negotiate safe sexual practices.[67]

49. The United Nations country team stated that, in addition to the burden of HIV/AIDS, tuberculosis and malaria, Zambia was experiencing a major increase in non-communicable diseases, including cardiovascular diseases, diabetes, cancer and chronic respiratory diseases, which had been prompted in part by inadequate information and the absence of infrastructure for healthy lifestyles.[68]

5. Right to education[69]

50. UNESCO stated that access to education remained a considerable challenge due to the limited school places and the backlog of children yet to enter the school system, particularly in rural areas.[70] It made recommendations, including that Zambia be strongly encouraged to ratify the Convention against Discrimination in Education and that it effectively implement its Education Act and educational policies.[71]

51. The Committee on the Rights of the Child was concerned at reports that general purpose funds and other fees and school charges were collected through parent-teacher associations. It was also concerned at the poor school infrastructure, the lack of hygiene and

the long distances pupils had to travel to school, the insufficiently trained teachers and the inadequate budget allocation for education. It recommended that Zambia ensure that primary education was free of charge in practice and free of other, additional costs in order to facilitate the participation of all children in primary education, and that it monitor parent-teacher associations to ensure that no fees were imposed on children.[72]

52. The same Committee was concerned about the lack of recreational activities organized for children during school time and the lack of leisure and playground spaces freely available to children. It recommended that Zambia organize sports activities and ensure that children, particularly girls, had time for leisure and play, as well as free access to playground spaces.[73]

53. UNESCO noted that Zambia had enacted the Higher Education Act (2013) and the Higher Education Loans and Scholarship Act (2016). It also noted that the Sixth National Development Plan (2011-2015) included school feeding programmes, social cash transfers, legal and policy reforms and advocacy programmes to promote school attendance.[74]

54. UNESCO stated that proactive policies and strategies had been introduced for the enrolment, retention and progression of girls at the primary school level, which included a re-entry policy for girls who fell pregnant, and the promotion of equal learning opportunities for all.[75] However, access to education for girls continued to be a challenge because of early marriage, teenage pregnancy and discriminatory traditional and cultural practices.[76]

55. UNESCO stated that education on HIV and AIDS had been integrated in the curriculum with a focus on knowledge-driven interventions under the broad framework of life and survival skills.[77]

56. UNESCO noted that Zambia had invested in early childhood development and education, which had led to the development of a specific curriculum and the construction of early childhood education centres.[78]

D. Rights of specific persons or groups

1. Women[79]

57. The United Nations country team stated that the unsuccessful referendum, which had resulted in the proposed Bill of Rights not being adopted, had created some legal and constitutional inconsistencies due to the fact that the 1996 Bill of Rights remained in force. One such inconsistency resulted from article 23 of the 1996 Bill of Rights, which allowed for discrimination against women in matters of adoption, marriage, divorce, burial, devolution of property on death and other matters of personal law. Such discrimination generally occurred as a result of the application of traditional or customary practices or law. The continued existence of that derogation under article 23 was in direct conflict with article 1 (1) of the Constitution, which provided that the Constitution took precedence over all other written laws, customary laws and customary practices and rendered them void to the extent of the inconsistency. Arguably, application of article 23 could be tested through the Constitutional Court against article 1 (1) and its applicability nullified. However, because the Bill of Rights was embedded and could be amended only through national referendum, the wording of article 23 itself would remain extant until the revised Bill of Rights was adopted by a future referendum.[80]

58. In 2015, the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the sale of children, child prostitution and child pornography urged the Government to show that it was serious in its efforts to tackle gender-based violence and sexual violence against women and girls by ending the impunity of the singer Clifford Dimba, who had been convicted in 2014 for the rape of a 14-year-old girl and sentenced to 18 years in prison. He had been pardoned by President Lungu after serving one year of his sentence and had subsequently been appointed as an ambassador in the fight against gender-based violence. The Special Rapporteurs called on the Government to publicly withdraw Mr. Dimba's appointment and to ensure that there would be no further pardons for such crimes against woman and girls.[81]

2. Children[82]

59. The Committee on the Rights of the Child expressed concern that, despite the new Constitution (Amendment) Act defining a child as any person who had not attained the age of 18, and the Marriage Act establishing the legal age for marriage as 21 years of age, there remained a persistent practice of child marriage.[83]

60. The United Nations country team stated that there was a need to harmonize religious and customary law with the provisions of the Convention on the Rights of the Child to prevent discrimination against girls.[84]

61. The Committee on the Rights of the Child expressed concern that, while children between the ages of 13 and 15 years were permitted by law to engage in light work, they undertook work that was reportedly not light and that interfered with their education. The Committee urged Zambia to step up its efforts to bring an end to all forms of child labour and to take all necessary measures for the protection, rehabilitation and reintegration of children, and to fully implement the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization by adopting, implementing and monitoring the implementation of the regulation that permitted the employment of children in light work.[85]

62. The Special Rapporteur on the right to food stated that the root causes of child labour, which were embedded in the contract farming system, must be tackled and labour-intensive agricultural practices carefully monitored.[86]

3. Persons with disabilities

63. The United Nations country team stated that, while the Convention on the Rights of Persons with Disabilities had been domesticated with the enactment of the Persons with Disabilities Act No. 6 of 2012, several pieces of subsidiary legislation needed to be aligned with the Act and with international standards.[87]

64. The Special Rapporteur on the rights of persons with disabilities recommended that Zambia carry out public awareness-raising campaigns on the rights of persons with disabilities, sensitize the media on the promotion of a positive image of disability and dispel attitudinal barriers and stigma.[88] She also recommended that Zambia prevent and sanction all forms of discrimination against persons with disabilities, including by raising awareness and monitoring the use of discriminatory language against persons with disabilities in the media.[89]

65. The Committee on the Rights of the Child recommended that Zambia ensure that children with disabilities had access to inclusive early childhood care and education, early development programmes and health-care and other services, and that those services received adequate human, technical and financial resources.[90]

66. The Special Rapporteur on the rights of persons with disabilities recommended that Zambia adopt a plan to implement an inclusive education system through adjustments to the physical environment, adaptation of educational materials and learning methodologies and teacher training, and provide the necessary support and accommodation for all students with disabilities.[91]

67. She also recommended that Zambia allocate and disburse sufficient funds for the implementation of social protection programmes for persons with disabilities, and mainstream disability in all existing social protection programmes.[92]

68. She further recommended that Zambia guarantee the exercise of legal capacity to all persons with disabilities by repealing all forms of formal and informal substituted decision-making, support initiatives to implement supported decision-making regimes, including ongoing projects developed by representative organizations of persons with disabilities, and take immediate measures to stop forced institutionalization, forced treatment and forced sterilization of persons with psychosocial disabilities.[93]

69. In addition, she recommended that Zambia repeal all provisions that denied access to justice to persons with intellectual and psychosocial disabilities, and make all justice proceedings accessible to all persons with disabilities, including through the provision of

legal aid and of information in accessible formats, sign language interpretation and protocols for procedural and age-appropriate accommodation.[94]

4. Migrants, refugees, asylum seekers and internally displaced persons

70. Referring to the relevant supported recommendation from the second cycle of the universal periodic review,[95] the Office of the United Nations High Commissioner for Refugees (UNHCR) stated that the 2016 Refugee Bill, which was waiting to be tabled before Parliament and enacted into law, made provision for a refugee status determination procedure. Although the bill was a significant improvement from the 1970 Refugee Control Act, it retained the encampment policy and restrictions on freedom of movement, limitations on refugees' right to work, restrictions on their freedom of association and expression, and the requirement to submit an asylum application within seven days of entry into the country, all of which were of concern. Furthermore, it did not provide legal and procedural safeguards for all asylum seekers during the refugee status determination procedure and did not specify the content of refugee protection applicable to all refugees, including child-specific provisions. UNHCR made recommendations, including that the Government ensure that the bill was in conformity with international standards.[96] The Committee on the Rights of the Child recommended that Zambia expedite the enactment of the Refugee Bill and strengthen the legal protection of refugee children.[97]

71. The same Committee urged Zambia to provide refugee children with access to social services, such as health and education.[98]

72. Referring to the relevant supported recommendations from the second review cycle,[99] UNHCR stated that although Zambia had made reservations to article 22 of the 1951 Convention relating to the Status of Refugees concerning refugees' access to education, in practice, refugee children were given access to primary and secondary education. However, several barriers in access to education for refugee children existed, including the ever-rising cost of education and the need for children, particularly those in secondary and tertiary education, to acquire an expensive study permit. Although primary education was free in government schools, indirect education costs hindered access to primary education. There were also limited places in government schools, with priority given to Zambian children at the time of enrolment. The majority of urban refugee children were forced to enrol in community schools, which required payment of fees and often did not meet national education standards.[100]

73. UNHCR stated that, although the Immigration and Deportation Act (2010) provided for alternatives to detention through the issuance of asylum seeker permits or report orders, in practice, those provisions were rarely implemented. The lack of individualized assessments by the immigration authorities and the systematic consideration of a risk of absconding resulted in the continued detention of children and their families, as well as of unaccompanied and separated children.[101]

74. UNHCR noted that asylum seekers and refugees were being detained together with the general criminal population in facilities that had been established for the criminal justice system.[102] Asylum seekers who were detained in facilities that were not regularly monitored by UNHCR were not easily identified and had difficulties in accessing the asylum procedure. While national legislation provided for the right to legal representation, that right was rarely exercised as there were few lawyers employed by the Government who were available to provide free legal representation to detained refugees and asylum seekers.[103]

75. The United Nations country team stated that, while improvements had been made in that migrant children were not detained for immigration offences, they were given limited access to interpretation and other services.[104]

76. UNHCR stated that, due to the encampment policy, refugees required an urban resident permit to live outside of the two designated refugee settlements. As those permits were granted on limited grounds, thousands of recognized refugees lived in urban areas without such permits. As a consequence, they did not have access to basic services and were at risk of exploitation.[105]

77. UNHCR also stated that refugees seeking paid or self-employment had to apply to the immigration authorities through a process that was complex and expensive.[106]

5. Stateless persons[107]

78. Referring to the supported recommendation from the second review cycle on access to free birth registration,[108] UNHCR stated that despite the Government's efforts, the administrative practices for birth registration remained lengthy and complex. The process was slow and had resulted in a backlog of applications. Applicants often had to travel long distances to the district registration offices to apply for and collect birth certificates. Refugees residing without legal status in urban areas did not have access to birth registration because they needed a valid refugee identity document to apply for a birth certificate. Moreover, a birth record from a health centre was a prerequisite for the issuance of a birth certificate.[109]

79. While noting that measures had been put in place to promote free birth registration, the Committee on the Rights of the Child expressed concern about the birth registration system. It recommended that Zambia strengthen its efforts to develop and implement free birth registration procedures and the issuance of birth certificates with a special focus on children in rural areas and children from marginalized groups, such as refugee children.[110]

80. UNHCR stated that a study commissioned by Zambia, which had been completed in December 2016, had found that it was unclear who was responsible for the identification and protection of stateless persons.[111]

Notes

1 Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Zambia will be available at www.ohchr.org/EN/HRBodies/UPR/Pages/ZMIndex.aspx.
2 For relevant recommendations, see A/HRC/22/13, paras. 102.7, 102.9, 102.11, 102.14, 102.16-102.19, 103.1, 103.3-103.9, 103.18, 103.31-103.32 and 103.46.
3 See CRC/C/ZMB/CO/2-4, paras. 41-42.
4 Ibid., para. 67.
5 See also A/HRC/34/58/Add.2, para. 81 (a).
6 See CRC/C/ZMB/CO/2-4, para. 68.
7 See United Nations country team submission to the universal periodic review of Zambia, para. 2.
8 See OHCHR, "OHCHR's approach to field work", in *OHCHR Report 2014*, p. 143, and "OHCHR in the field: Africa", in *OHCHR Report 2016*, p. 161.
9 For relevant recommendations, see A/HRC/22/13, paras. 102.1, 102.3-102.4, 102.6, 102.8, 102.12, 102.15, 102.48, 102.52, 102.64, 103.10, 103.14-103.16, 103.20-103.24 and 103.33.
10 See CRC/C/ZMB/CO/2-4, paras. 7-8.
11 See country team submission, para. 4.
12 See CRC/C/ZMB/CO/2-4, paras. 11-12.
13 Ibid., paras. 9-10.
14 Ibid., paras. 17-18.
15 See A/HRC/34/58/Add.2, para. 81 (b).
16 See country team submission, para. 13.
17 See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21605&LangID=E.
18 For relevant recommendations, see A/HRC/22/13, paras. 102.43, 103.12-103.13 and 103.35.
19 See CRC/C/ZMB/CO/2-4, paras. 25-26.
20 See A/HRC/34/58/Add.2, para. 29.
21 Ibid., para. 28.
22 See country team submission, para. 29.
23 For the relevant recommendation, see A/HRC/22/13, para. 102.68.
24 See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21605&LangID=E.
25 See CRC/C/ZMB/CO/2-4, paras. 21-22.
26 For relevant recommendations, see A/HRC/22/13, paras. 102.5, 102.22, 102.35-102.41 and 103.37-103.45.
27 See country team submission, para. 33.
28 See A/HRC/34/58/Add.2, para. 28.
29 See country team submission, para. 32.
30 Ibid.

[31] See CRC/C/ZMB/CO/2-4, paras. 63-64.
[32] Ibid., para. 64.
[33] See country team submission, para. 35.
[34] Ibid., para. 12.
[35] Ibid., para. 19.
[36] See CRC/C/ZMB/CO/2-4, paras. 63-64.
[37] Ibid.
[38] Ibid.
[39] Ibid.
[40] Ibid., paras. 65-66.
[41] See country team submission, para. 10.
[42] For relevant recommendations, see A/HRC/22/13, paras. 102.44 and 103.51-103.53.
[43] See UNESCO submission to the universal periodic review of Zambia, para. 23.
[44] Ibid., para. 24.
[45] See country team submission, para. 40.
[46] Ibid., para. 37.
[47] Ibid., para. 22.
[48] For relevant recommendations, see A/HRC/22/13, paras. 102.2, 102.42, 102.69 and 103.11.
[49] See CRC/C/ZMB/CO/2-4, paras. 61-62.
[50] Ibid., paras. 43-44.
[51] For the relevant recommendation, see A/HRC/22/13, para. 102.45.
[52] See country team submission, para. 50.
[53] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21605&LangID=E.
[54] For the relevant recommendation, see A/HRC/22/13, para. 102.46.
[55] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21605&LangID=E.
[56] Ibid.
[57] Ibid.
[58] Ibid.
[59] Ibid.
[60] For relevant recommendations, see A/HRC/22/13, paras. 102.10, 102.47, 102.49-102.62 and 104.1.
[61] See CRC/C/ZMB/CO/2-4, paras. 47-48.
[62] Ibid.
[63] Ibid.
[64] Ibid.
[65] Ibid., paras. 49-50.
[66] Ibid.
[67] Ibid., paras. 51-52.
[68] See country team submission, para. 41.
[69] For relevant recommendations, see A/HRC/22/13, paras. 102.63, 102.65-102.67 and 102.70.
[70] See UNESCO submission, para. 22.
[71] Ibid., para. 22.
[72] See CRC/C/ZMB/CO/2-4, paras. 53-54.
[73] Ibid.
[74] See UNESCO submission, para. 15.
[75] Ibid., para. 21.
[76] Ibid., para. 22.
[77] Ibid., para. 19.
[78] Ibid., para. 16.
[79] For relevant recommendations, see A/HRC/22/13, paras. 102.27-102.29, 102.30-102.34, 103.17, 103.19, 103.27-103.29, 103.34 and 103.47-103.49.
[80] See country team submission, para. 8.
[81] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16913&LangID=E.
[82] For relevant recommendations, see A/HRC/22/13, paras. 102.13, 102.20-102.21, 102.23-102.26, 103.25-103.26, 103.30, 103.36 and 103.50.
[83] See CRC/C/ZMB/CO/2-4, paras. 23-24.
[84] See country team submission, para. 17.
[85] See CRC/C/ZMB/CO/2-4, paras. 57-58.
[86] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21605&LangID=E.
[87] See country team submission, para. 47.
[88] See A/HRC/34/58/Add.2, para. 82 (a).
[89] Ibid., para. 82 (b).
[90] See CRC/C/ZMB/CO/2-4, paras. 45-46.
[91] See A/HRC/34/58/Add.2, para. 85 (a).
[92] Ibid., para. 86.

[91] Ibid., para. 88.
[92] Ibid., para. 89.
[93] See A/HRC/22/13, para. 103.30 (Argentina).
[94] UNHCR submission to the universal periodic review of Zambia, pp. 2-3. See also A/HRC/22/2, paras. 677 and 702.
[95] See CRC/C/ZMB/CO/2-4, paras. 55-56.
[96] Ibid.
[97] See A/HRC/22/13, para. 102.65 (Algeria) and para. 102.67 (Mexico).
[98] UNHCR submission, pp. 3-4.
[99] Ibid., p. 4.
[100] Ibid., p. 5.
[101] Ibid., p. 5.
[102] See country team submission, para. 34.
[103] UNHCR submission, p. 5.
[104] Ibid., p. 6.
[105] On the relevant recommendations, see A/HRC/22/13, para. 103.94.
[106] See A/HRC/22/13, para. 103.94 (Mexico), and A/HRC/22/2, paras. 677 and 702.
[107] UNHCR submission, p. 8.
[108] See CRC/C/ZMB/CO/2-4, paras. 31-32.
[109] UNHCR submission, p. 6.

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Summary of Stakeholders' submissions on Zambia*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 16 stakeholders' submissions[1] to the universal periodic review, presented in a summarized manner owing to word-limit constraints. A separate section is provided for the contribution by the national human rights institution that is accredited in full compliance with the Paris Principles.

II. Information provided by the national human rights institution accredited in full compliance with the Paris Principles

2. While noting that a de facto moratorium on the death penalty had been maintained since 1997, ZHRC stated that there has been a sharp increase in the number of inmates on death-row and recommended ratification of the Second Optional Protocol to International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. ZHRC also recommended ratification of the three Optional Protocols to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.[2]

3. ZHRC noted that at its universal periodic review in 2012 ("2012 review")[3], the Republic of Zambia ("Government and "Zambia", respectively) "pledged" to issue a

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standing invitation to Special Procedures Mechanism of the Human Rights Council,[4] and stated that only two of the ten requests for visits by special rapporteurs had since been granted by the Government.[5]

4. While noting progressive efforts to implement recommendations from the 2012 review, ZHRC expressed concern about the lack of a strong inter-ministerial mechanism, a stakeholder coordination mechanism and an implementation plan for the implementation of recommendations.[6]

5. ZHRC stated that Zambia was yet to integrate the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment into the domestic legal framework. ZHRC further stated that its campaign against torture gave birth to a draft Anti-Torture Bill, which will need the support of the Government to be passed into law.[7]

6. While noting the commitment of Zambia to protect victims of human trafficking, ZHRC recommended amending the Anti-Human Trafficking Act No. 11 of 2008 to ensure that victims of human trafficking were not prosecuted.[8]

7. ZHRC stated that the Bill of Rights did not make economic, social and cultural rights justiciable and the 2016 national referendum was an unsuccessful attempt at expanding the Bill of Rights in that regard. It made recommendations including the establishment of a road map to guide the process of enacting a new bill of rights.[9]

8. ZHRC stated that insufficient resources had continued to undermine its capacity to conduct activities on the promotion and protection of human rights throughout the country. Furthermore, since 2015 funding to the Commission had been steadily reduced.[10]

9. ZHRC stated that in 2015, it had conducted a base-line assessment of business and human rights and recommended that Zambia develop a national action plan on business and human rights premised on this assessment. It also recommended designating a focal point institution to spearhead implementation of the United Nations Guiding Principles on business and human rights.[11]

10. While noting the positive measures that had been taken,[12] ZHRC expressed concern that detention facilities continued to be characterized by problems of overcrowding, poor sanitation, lack of meaningful separation of juveniles from adults, impoverished holding facilities for women, poor health and medical care including pre-natal and post-natal services, poor welfare services for circumstantial children, among other things.[13]

11. ZHRC stated that the country experienced unprecedented levels of political intolerance and violence before, during and immediately after the 11th August 2016 general election. It expressed grave concerns over violent actions of political party cadres and police officers which left several people injured, caused loss of life and property, curtailed freedom of assembly and expression and bred a culture of fear among the electorate and political players. ZHRC commended steps taken by Government to appoint a Commission of Inquiry and recommended making public the finding of this Commission when they become available. It also recommended fully implementing the recommendations that will be made by the Commission.[14]

12. ZHRC stated that the manner in which the laws have been applied negated the spirit of the constitutional provisions on freedom of assembly and expression. It noted with concern incidences of brutality, alleged corruption and selective application of the Public Order Act by the Police and thereby infringing on the rights of individuals believed to, or actually holding divergent views from the Government, opposition political parties and or groups believed to be critical of the Government.[15]

13. ZHRC stated that it had observed incidences of attacks on journalists and media houses by party cadres and the police, including closure or threats of closure of media

houses by regulatory authorities. The lack of protection for journalists, the lack of access to information and the weak regulatory mechanisms remained daunting challenges to the media-operating environment.[16]

14. While noting efforts by the Government to ensure sexual and reproductive health and rights, ZHRC stated that a national assessment raised a number of relevant concerns including the high unmet need for contraception, persistent barriers in access and availability of quality and affordable health care for pregnant women and mothers thus resulting in high maternal deaths, persistently high sexual and gender-based violence, persistent barriers in access to adolescent-friendly health services thus resulting in high teenage pregnancy rates, high HIV rates among young adults between the ages of 20 to 24 years, and a high rate of child-marriage, as well as constrained legal provisions for safe abortion services.[17]

15. ZHRC stated that although significant progress had been made by Zambia in fulfilling the right to education, there were concerns such as the high costs of tertiary education which remained prohibitive for children from poor families, despite the support provided by the Government in the form of bursaries and loans. While remarkable progress has been made in urban areas, school-going children in rural areas still travelled long distances to access education. Teacher-pupil ratio remained high. The progression rate to secondary and tertiary levels, especially among girls, remained low due to teenage pregnancy and child-marriage. Infrastructure in schools in rural areas was poor and inadequate and there was a persistent lack of learning materials in those schools.[18]

16. ZHRC stated that positive steps had been taken to incorporate the Convention on the Rights of Persons with Disabilities into the domestic legal framework through the enactment of the Persons with Disabilities Act No. 6 of 2012. However, a number of laws were not in conformity with the Convention.[19]

III. Information provided by other stakeholders

A. Scope of international obligations and cooperation with international human rights mechanisms and bodies[20]

17. SALC stated that Zambia was yet to ratify some important instruments relevant for the advancement of human rights and recommended ratification of all outstanding human rights treaties, including the Optional Protocol to Convention on the Rights of Persons with Disabilities, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women, and the three Optional Protocols to the Convention on the Rights of the Child.[21]

18. APG23 recommended ratification of the Optional Protocol to Convention on the Rights of Persons with Disabilities.[22]

19. JS3[23] recommended ratification of the three Optional Protocols to the Convention on the Rights of the Child, as well as all outstanding human rights treaties.[24]

20. AI stated that Zambia had enacted the Ratification of International Agreements Act of 2016, which guides the process of ratifying international agreements and the domestication of those agreements.[25]

21. JS3 stated that the Ratification of International Agreements Act of 2016 may prove an impediment to the speedy ratification of human rights instruments and recommended its review.[26]

22. Referring to a relevant supported recommendation from the 2012 review, AI recommended that Zambia issue a standing invitation to the Special Procedures Mechanism of the Human Rights Council.[27]

23. JS3 stated that Zambia had not submitted a mid-term report on the implementation of recommendations from the 2012 review.[28]

24. APG23 recommended that Zambia ensure the effective implementation of the recommendations from the upcoming review and in that regard it recommended the establishment of a permanent governmental mechanism to oversee the implementation of those recommendations.[29] ERI made a similar recommendation.[30]

B. National human rights framework[31]

25. AI welcomed the new Constitution which was approved on 5 January 2016 after being passed into law through an act of Parliament, stating that it contained progressive provisions on non-discrimination. However, a proposed new Bill of Rights, which could only be adopted by referendum, was not adopted at the referendum held on 11 August 2016, leaving the country to revert back to the old Bill of Rights. AI stated that the old Bill of Rights did not include economic, social and cultural rights.[32]

26. PAI called for an amendment of the Constitution to include gender-identity as a ground for discrimination.[33]

27. Recalling that at the 2012 review, Zambia supported a recommendation to fully align its national legislation with the provisions of the Rome Statute of the International Criminal Court, HRW recommended that Zambia implement the Rome Statute through national legislation, including by incorporating provisions to cooperate promptly and fully with the International Criminal Court.[34]

28. JS3 stated that the National Coordinating Council for Children was yet to be functional.[35]

29. JS5 stated that the national health and HIV policies and strategies did not have a clear definition of key populations. This may lead to some vulnerable groups falling through the cracks and not receiving the necessary HIV programming. Also, the absence of a clear definition of key populations may inhibit Government accountability.[36]

30. JS1 stated that the recommendation on the prioritization of human rights education and awareness-raising in the Government's plans, strategies and programmes, has not been implemented.[37]

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross cutting issues

Equality and non-discrimination[38]

31. AI stated that the Government Authorities have allowed politicians to incite hatred causing discrimination and demonization of the Tonga ethnic group, based in the southern province of Zambia. During the run-up to the 2016 election, the authorities did not clamp down on the use of hateful rhetoric, discrimination and violence towards the Tonga ethnic group. Senior state officials made some derogatory remarks against the Tonga, in particular against opposition party activists from that tribal group. Pursuant to the International Convention on the Elimination of All Forms of Racial Discrimination, Zambia has an

obligation to prohibit and bring an end to racial discrimination perpetrated by any persons, group or organisation.[39]

12. Citing cases of persons being arrested on charges related to sexual orientation or gender identify, HRW stated that those persons were subjected to forced anal examinations, which was a form of cruel, degrading and inhuman treatment that could rise to the level of torture.[40]

13. RFSU stated that Article 155 of the Penal Code had been widely interpreted as the legal basis for criminalizing same-sex relations while the Constitution prohibited discrimination and provided for the rights to equality and privacy. This ambivalence, coupled with the lack of a sound policy against discrimination based on sexual orientation and gender identity has led to a systematic denial of the rights of lesbian, gay, bisexual and transgender persons.[41] RFSU made recommendation including the decriminalization of same-sex relations between consenting adults.[42]

Development, the environment and business and human rights[43]

14. Referring to a relevant supported recommendation from the 2012 review, JS2 stated that there have been positive developments in terms of improving the legal and institutional framework for the mining sector, which included the amendment of the Mines and Minerals Development Act in 2015.[44] Notwithstanding, several challenges persisted to ensure the protection of human rights and the environment in the mining areas. There were gaps in the Act, especially in relation to prior consultation and meaningful engagement of local communities in decisions that affect them and the provision of adequate compensation in cases of relocation. Moreover, the existing legislation has not been adequately implemented and there was a lack of coordination between responsible institutions.[45]

2. Civil and Political Rights

Right to life, liberty and security of person[46]

15. AI noted that following her visit to Zambia, the Special Rapporteur on the rights of persons with disabilities highlighted how people with albinism lived in constant fear of being attacked and killed for their body parts and expressed concern that since 2015 at least 10 people with albinism have been killed.[47]

16. RFSU stated that the legislation and policies that were in place to address sexual, domestic and gender-based violence were insufficient and called for an improvement in their content and implementation. RFSU also called for the eradication of impunity for sexual, domestic and gender-based violence, a strengthening of knowledge and resources, and the promotion of an attitudinal change among judges, prosecutors, lawyers, police, health care providers, social service institutions, religious and traditional leaders and the communities.[48]

Administration of justice, including impunity and the rule of law

17. JS3 stated that children in conflict with the law had been subjected to constant and usually protracted pre-trial detention particularly if they had been jointly charged with adults. Furthermore, for children convicted of an offence, the delays in the issuance of the confirmation orders prolonged their detentions, as custodial sentences were only deemed to have commenced upon the issuance of confirmation orders.[49]

18. SALC stated that in August 2014, Zambia signed the amended Protocol on the Tribunal of the Southern Africa Development Community, which introduces substantial changes with implication on the protection of human rights by the Tribunal. If duly ratified, the amended Protocol will remove access to the Tribunal by individuals, as well as the

human rights jurisdiction of the Tribunal. SALC recommended that Zambia withdraw its commitment to the amended Protocol which violates the right of access to justice; and to promote the reinstatement of the rights of access of persons to the Tribunal.[50]

Fundamental freedoms and the right to participate in public and politicol life[51]

39. JS1 stated that supported recommendations from the 2012 review relating to the freedoms of assembly and expression had not been implemented.[52] Referring to one such recommendation, AI stated that although Zambia had expressed its commitment to ensure that the rights to freedom of expression and peaceful assembly were upheld, it remained concerned that these rights continued to be restricted, including through the use of libel laws and the Public Order Act.[53]

40. AI stated that the Government remained intolerant of criticism and responded by using criminal defamation laws.[54] JS4 stated that freedom of expression remained criminalized by laws passed during the colonial era which were designed to crush dissent, and cited specific pieces of legislation in that regard.[55] Referring to a relevant supported recommendation from the 2012 review, JS4 stated that since the 2012 review, there had been numerous cases of harassment and intimidation of the media. Journalists, especially from private media organizations, were routinely harassed by political party cadres, mainly from the ruling party. Independent media organizations received regular threats and harassment from Government officials. JS4 called for an investigation of such threats.[56]

41. SALC stated that all of the provisions related to criminal defamation in Chapter XVIII of the Penal Code did not comply with the international standards for freedom of expression and should be repealed.[57]

42. JS4 expressed concern over the Government's continued ownership of the main media institutions which included Zambia National Broadcasting Corporation, the Times of Zambia and the Zambia Daily Mail, which placed the opposition political parties at a disadvantage.[58]

43. JS1 expressed alarm by the continued use of the Public Order Act to unwarrantedly limit the exercise of the freedoms of peaceful assembly and association.[59] JS4 stated that the Act remained in its pre-independence form with the result that dissent, especially by members of the opposition political party, is crushed through their arrests or threats of arrest.[60]

44. JS1 stated that human rights defenders and civil society activists have been subjected to verbal and physical attacks by the security forces and members of the Government.[61] It called on Zambia to create and maintain, in law and in practice, an enabling environment for civil society, guaranteeing the freedoms of association, expression and peaceful assembly.[62]

45. AI stated that the Non-Governmental Organisations' Act, 2009 continued to interfere with the ability of non-governmental organizations to operate independently and freely without undue interference.[63]

46. JS1 stated that the recommendation in relation to legislation on access to information was only partially implemented, as the Access to Information Bill that was presented to Parliament was yet to be enacted.[64]

47. Referring to general election in 2016, TCC stated that pre-election violence caused an increase in tension creating a climate of fear and hindering the rights of citizens to participate in the election process as candidates and as voters.[65] TCC made recommendations including that Zambia promptly investigating claims of violence instigated by political parties.[66]

48. TCC stated that during the period leading up to the 2016 general election, opposition parties were restricted from holding rallies. These restrictions included the denial of flight clearances for aircrafts used by the opposition parties and the denial of permission to hold rallies.[67] TCC made recommendations including that Zambia provide a level playing field to all political parties and candidates.[68]

49. TCC stated that before the 2016 elections, Parliament passed a constitutional amendment and implementing legislation that all parliamentary and presidential candidates have at minimum a Grade 12 education. Given the systematic gender imbalance in the education system, far fewer women have completed Grade 12, leaving many women illegible for office. Consequently, there were a low number of female representatives in politics, with women occupying only 26 of the 156 parliamentary seats.[69]

50. TCC stated that following the 2016 election, institutions charged with resolving electoral disputed failed to uphold due process and to respect the right to an effective and timely legal remedy.[70]

Prohibition of all forms of slavery[71]

51. Referring to relevant recommendations from the 2012 review, JS3 stated that Zambia was both a transit and destination country for trafficking in persons. There was also a prevalence of the trafficking of children from rural areas to urban areas.[72]

Right to privacy and right to family

52. JS5 stated that consensual same-sex relations were criminalised and punishable by prison sentences of up to 15 years.[73] SALC stated that there was no rational basis on which to criminalise consensual sexual acts taking place in private and made recommendations including repealing Sections 155 and 158 of the Penal Code Act.[74]

3. Economic, Social and Cultural Rights

Right to work and to just and favourable conditions of work[75]

53. JS5 called for the repealing of all laws criminalizing sex-work, as well as the municipal bylaws which were used to harass and detain sex workers.[76]

Right to social security

54. JS3 stated that current social security measures were discretionary and recommended that Zambia make social security a legal entitlement.[77]

Right to an adequate standard of living[78]

55. JS3 stated that about 60 percent of the population lived in poverty, which included about 20 000 children some of whom have been deprived of a family environment and lived and worked on the streets. An analysis of the national budgets for child-related programmes revealed that while there was an increase in budgetary allocations for children's health and nutrition for 2013 to 2015, there was decrease in 2016.[79]

56. While recognising the relevant efforts that had been made, UPG23 stated that there remained serious problems of access to necessary and sufficient food.[80] It made recommendations including significantly increasing public funding for nutrition to achieve relevant goals in accordance with national and international commitments.[81]

Right to health[82]

57. JS5 stated that there was reluctance to provide information about contraception to unmarried girls due to cultural and religious expectations. Girls were often not comfortable in receiving contraceptives because they feared being judged by their communities.[83]

58. ADF stated that the high rates of maternal mortality had less to do with the legality of abortion *per se* and was largely due to an inability to access obstetric care, the lack of relevant information, and the lack of health workers, especially in the case of women living in poverty and in rural areas.[84] ADF made recommendations including that Zambia improve health care infrastructure, access to emergency obstetric care, midwife training and resources devoted to maternal health.[85]

59. JS5 stated that complicated procedural requirements and inadequate services limit the number of legal abortions. Thus, despite the liberal nature of the abortion law, there were continuing obstacles to obtaining a legal abortion and therefore a continued reliance on illegal abortion.[86]

60. RFSU stated that while the law allowed the termination of pregnancy under certain circumstances, cumbersome legal requirements, lack of availability of medical practitioners and health-care facilities, coupled with socioeconomic obstacles made access to safe and legal abortion almost impossible in practice.[87] Women were reluctant to seek an abortion and post-abortion care because of the lack of access to relevant information, family planning and appropriate services, as well as social stigma and religious reproach.[88]

61. HRW stated while Zambia had taken steps to prevent and treat HIV/AIDs and other sexually transmitted diseases, greater efforts should be made to ensure that services relating to the prevention and treatment of HIV/AIDS and other sexually transmitted diseases were inclusive of, and accessible to, all people, including adults and children with disabilities.[89]

62. JS5 stated that marginalized groups – sex workers, men who have sex with men, gay, bisexual and transgender individuals, adolescents and youth – were disproportionately affected by HIV and AIDS due to factors such as discrimination, poverty, lack of access to education, health, mental wellbeing and other services that promote the access to health awareness.[90]

Right to education[91]

63. Referring to relevant supported recommendations from the 2012 review, APG23 stated that achieving universal access to education remained a difficult challenge.[92] It made recommendations including ensuring the building of new class rooms in existing schools and the recruitment of a greater number of teachers to reduce the pupil-teacher ratio and the number of pupils per class.[93]

64. ERI stated that while the Government had taken steps to improve access to education, accessibility to education remained a significant problem due to the lack of infrastructure and adequate training for teachers. From a demographic perspective, there were a limited number of places in schools in high-density areas and in low density areas children were required to travel long distances to reach school.[94]

65. RFSU stated that Zambia had endorsed the Eastern and Southern African Ministerial Commitment on comprehensive sexuality education and sexual and reproductive health services for adolescents and young people and although remarkable progress had been made to implement this Commitment, there were still challenges in relation to the availability of comprehensive sexual education at a local level and for those adolescents who were out of school, as well as in the quality of the education provided.[95]

66. JS3 stated that an estimated 1,400,000 children were in need of access to a least one year of organized learning before starting primary school.[96]

4. Rights of specific persons or groups

Women[97]

67. JS5 stated that the position of women remained subordinate to that of their male counterparts, mainly as a result of conservative interpretations of religion, patriarchy and gender stereotypes and norms, which is bolstered through the dual legal system and in particular the application of customary laws most of which institutionalize patriarchal views of the role of women in the family.[98] In particular, customary law and practice on marriages, divorce and inheritance, fail to adequately protect women and ensure that their rights to non-discrimination and equality are realized.[99]

68. HRW stated that the large-scale agricultural deals involving rural communities disproportionately impacted on women. Resettlement and compensation were left up to the investor and the authorities played a minimal role in resettlement and compensation discussions affecting local residents. In the Serenje district, Central province, women described barriers to participation, in meetings relevant to their eviction, including the fear of being subjected to aggressive and violent behaviour. Furthermore, due to the resettlement, women walked further to fetch water, firewood and other resources, experienced hardships in managing limited access to food, and experienced difficulties due to loss of farm and non-farm income from the sale of forest products such as roots, mushrooms, leaves, caterpillars and sometimes rats.[100]

69. JS5 referred to the Anti-Gender Based Violence Act and the Rape Act and stated that marital rape was not criminalized. It recommended a revision of both of these Acts to ensure the criminalization of marital rape and rape by intimate partners.[101] JS3 stated that the shelters for victims of gender-based violence as provided for in the Anti-Gender Based Violence Act were yet to be constructed and that the fund for victims was yet to be established.[102]

Children[103]

70. JS3 stated that there was an estimated 1.3 million orphans, 20 000 child-led households, and about 20 percent of the children below the age of 18 years were not living with either biological parent. JS3 called on Zambia to progressively establish alternative care institutions and to popularize foster care.[104]

71. JS2 stated that child-marriage had a major impact on the development of young girls. It contributed to the high rate of girls dropping out of school, early pregnancies, and HIV/AIDS prevalence among young girls.[105] Referring to relevant recommendations from the 2012 review,[106] JS2 stated that Zambia has shown firm commitment and made significant efforts towards eradicating the practice of child marriage. Notwithstanding, there was an urgent need for law reform to harmonize legislative provisions on marriage and ensure their compliance with international human rights law, which included accelerating the adoption of the Marriage Bill (2015) which, once adopted, will ban child marriage, set the minimum age for marriage at 18 years and provide for free consent to marriage by both parties.[107]

72. JS3 stated that children who were victims of sexual abuse were not given rehabilitation or compensation and recommended enacting a rehabilitation and compensations policy, pursuant to article 39 of the Convention on the Rights of the Child.[108]

73. GIEACPC recalled that at the 2012 review, Zambia supported recommendations to prohibit corporal punishment in all settings.[108] In 2016, a new Constitution was drafted which included prohibition of corporal punishment within its Bill of Rights. The Bill of Rights, which was subjected to a referendum, was not approved due to a low turnout.[110] Although corporal punishment of children was unlawful in the penal system, in schools and in some forms of day care, it remained lawful in the home, alternative care settings and in early childhood care and in day care for children where article 46 of the Juvenile Act of 1956 applies.[111]

74. JS3 stated that the burden of alternative care had been placed on private institutions and individuals. It made recommendations including the establishment of public alternative care institutions, and the popularization of foster care.[112]

75. JS3 stated that Child labour had remained high in the domestic household and in the agricultural and the informal sector. The Employment of Young Persons and Children's Act which defined the minimum age for employment and prohibited hazardous forms of child labour, had gaps in the classification of worst forms of child labour.[113]

Persons with disabilities

76. SALC stated that the Persons with Disabilities Act had been enacted in 2012 as part of the efforts to integrate the provisions of the Convention on the Rights of Persons with Disabilities into the national legal framework. However, a number of provisions from the Convention were left out of the Act and thus significantly undermining the extent to which women and children with disabilities as well as other persons with disabilities, generally, can enjoy their human rights. SALC called for a review of the Act to ensure its consistency with the standards entrenched in the Convention.[114]

77. SALC stated that although the Government had adopted a National Policy on Disability, which was a welcome development, outdated pieces of legislation continued to undermine the enjoyment of human rights by persons with disabilities. It noted, for instance, that the Mental Disorder Act of 1951 authorises psychiatric interventions without free or informed consent, and the arrest and detention of individuals with psychosocial and intellectual disabilities on the grounds of their disabilities or non-criminal behaviour.[115]

78. SALC stated that stigma and discrimination continued to undermine the enjoyment of human rights of persons with disabilities. Persons with disabilities experienced a lack of physical access to health facilities, refusal to be treated, failure to be treated with dignity by health care workers, and verbal abuse. Health care workers often failed to recognize persons with disabilities as autonomous persons who were able to consent to treatment and who were entitled to health care services including sexual and reproductive health care services.[116]

79. APG23 stated that there were very few specialized instructors or teachers to assist persons with disabilities at the primary, secondary and tertiary education levels. Education facilities lacked infrastructure and assistive devices necessary to reasonably accommodate persons with disabilities.[117]

Minorities and indigenous peoples

80. BNFA stated that the rights to self-determination of the people of Barotseland had been infringed by Zambia. The Constitution and legislation contradicted the spirit of the Barotseland Agreement of 1964, and violated the right to self-determination of the Barotse people.[118]

Stateless persons[119]

81. ERI stated that birth registration was a key area of concern given that a failure to register a child deprives that the child of his or her nationality. Birth registration was free in the first month of the child's birth. Late registration was subjected to a fee which was a disincentive for registering births.[120]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a national human rights institution with "A" status).

Civil society

Individual submissions:

ADF	ADF International, Geneva, Switzerland;
AI	Amnesty International, London, United Kingdom of Great Britain and Northern Ireland;
APG23	Associazione Comunità Papa Giovanni XXIII, Rimini, Italy;
BNFA	Barotse National Freedom Alliance, Mongu, Zambia;
ERI	Edmund Rice International, Geneva, Switzerland;
GIEACPC	End All Corporal Punishment of Children, London, United Kingdom of Great Britain and Northern Ireland;
HRW	Human Rights Watch, Geneva, Switzerland;
PAI	Pan Africa ILGA, Johannesburg, South Africa;
RFSU	The Swedish Association for Sexuality Education, Stockholm, Sweden;
SALC	Southern Africa Litigation Centre, Johannesburg, South Africa;
TCC	The Carter Center, Atlanta, United States of America.

Joint submissions:

JS1	CIVICUS World Alliance for Citizen Participation and Zambia Council for Social Development (Joint Submission 1);
JS2	Franciscan International, Edmund Rice International and Marist International Solidarity Foundation;
JS3	National Child Rights Forum on behalf of: Zambia Civic Education Association, Regional Psychosocial Support Initiative Zambia, Children in Need Network, Advocacy for Child Justice, Media Network on Child Rights and Development, Full Proof Mission, Girl Guides Association of Zambia, Society for Women and Aids in Zambia, Young Women in Action, SOS Children's Village Zambia, Bwafwano Integrated Services Organisation, Women for Change, Zambia Open Community Schools, Zitukule SHG Consortium, Lusaka, Zambia (Joint Submission 3);
JS4	PEN Zambia and PEN International, London, United Kingdom of Great Britain and Northern Ireland (Joint Submission 4);
JS5	Engender Rights Centre for Justice, Friends of Rainka, Generation Alive, TransBantu Zambia, The Lotus Identity, Women's Alliance for Equality, Coalition of African Lesbians and Sexual Rights Initiative (Joint Submission 5).

National human rights institution:

ZHRC	Zambia Human Rights Commission, Lusaka, Zambia.

[2] ZHRC, p. 3.

[3] *See* Report of the Working Group on the Universal Periodic Review, Zambia, A/HRC/22/13, 31 December 2012.

4 See A/HRC/22/13, 31 December 2012, para. 102.19 (Iraq).
5 JS8/C, p. 2.
6 Ibid.
7 Ibid., p. 3.
8 Ibid.
9 Ibid.
10 Ibid, p. 6; JS8/C made a recommendation (p. 6).
11 Ibid., p. 4.
12 Ibid.
13 Ibid. JS8/C made recommendations (p. 5).
14 Ibid., p. 5.
15 Ibid. JS8/C made recommendations (p. 6).
16 Ibid. JS8/C made a recommendation (p. 6).
17 Ibid., p. 6; JS8/C made recommendations (p. 7).
18 Ibid., p. 7.
19 Ibid., p. 6; JS8/C made a recommendation (p. 6).
20 For relevant recommendations see A/HRC/22/13, 31 December 2012, paras. 102.7, 102.9, 102.11, 102.14, 102.16 – 102.29, 103.1 – 103.3 – 103.9, 103.18, 103.31, 103.32 and 103.46.
21 SAI/C, paras. 2.1 and 2.3 (see also AI, p. 2).
22 SPN/23, para. 3.5.
23 The submission by JS3 focused solely on the rights of children (p. 1).
24 JS3, para. 6.
25 AI, p. 2.
26 JS3, paras. 6-9.
27 AI, pp. 3 and 4, and fn. 4 referring to A/HRC/22/13, 31 December 2012, para. 102.19 (Iraq).
28 JS3, para. 15.
29 SPN/23, para. 3.5.
30 HRI, para. 39.
31 For relevant recommendations see A/HRC/22/13, 31 December 2012, paras. 102.1, 102.3, 02.4, 102.6, 102.8, 102.12, 102.15, 102.60, 102.52, 102.64, 103.10, 103.14 - 103.16, 103.20 – 103.24 and 103.55.
32 AI, p.1. See also SAI/C, para. 2.2. SAI/C made recommendations (paras. 2.2 (a) and (b).
33 PAI, para. 23.
34 HRW, p. 9, referring to the Report of the Working Group on the Universal Periodic Review, 31 December 2012, A/HRC/22/13, para. 103.10 (Slovakia) and Report of the Human Rights Council on its twenty-second session (advanced unedited version), A/HRC/22/2, paras. 677 and 702.
35 JS3, para. 8. JS3 made recommendations (para. 9).
36 JS5, para. 7.
37 JS1, para. 1.5, referring to A/HRC/22/13, para. 102.15 (Thailand).
38 For relevant recommendations see A/HRC/22/13, 31 December 2012, paras. 102.43, 103.12, 103.13 and 103.35.
39 AI, p. 4. AI made recommendations, p. 5.
40 HRW, p. 4. HRW made recommendations (p. 7).
41 JS1/M1, para. 19.
42 Ibid., para. 22. For other recommendations see para. 22.
43 For relevant recommendations see A/HRC/22/13, 31 December 2012, para. 102.68.
44 JS2, paras. 13 and 14, referring to A/HRC/22/13, 31 December 2012, para. 102.68 (Namibia).
45 Ibid., para 18. JS2 made recommendations (para. 23).
46 For relevant recommendations see A/HRC/22/13, 31 December 2012, paras. 102.5, 102.22, 102.35 – 102.41, 103.57 – 103.63.
47 AI, p. 4.
48 JS1/M1, paras. 10 and 11.
49 JS3, para. 14.
50 SAI/C, paras. 3.18 – 3.20 (a) and (b).
51 For relevant recommendations see A/HRC/22/13, 31 December 2012, paras. 102.44, 103.51 – 103.53.
52 JS1, para. 1.9, referring to A/HRC/22/13, paras. 102.44 (United States of America) and 103.52.

(Ireland).

[51] AI, p. 1 and fn. 2, referring to A/HRC/22/13, 31 December 2012, para. 102.44 (United States of America). AI made recommendations (p. 4).
[52] AI, p. 3. AI made recommendations (p. 4).
[53] *JS4*, para. 20.
[54] *Ibid.*, para. 2, referring to A/HRC/22/13, 31 December 2012, para. 102.44 (United States of America) and paras. 10, 15 and 24.
[55] SALC, paras. 3.9 and 3.10.
[56] *JS4*, para. 17. *JS4* made a recommendation (para. 24).
[57] *JS1*, paras. 1.8, 2.2 and 2.5.
[58] *JS4*, para. 22. *JS4* made a recommendation (para. 24).
[59] *JS1*, para. 3.2.
[60] *Ibid.*, para. 6. *JS1* made recommendations (paras. 6.1-6.6).
[61] AI, p. 3.
[62] *JS1*, para. 1.5, referring to A/HRC/22/13, para. 102.4 (United States of America).
[63] ICC, p. 1.
[64] *Ibid.*, p. 2, paras. 1.1 and 1.2.
[65] *Ibid.*, p. 2.
[66] *Ibid.*, p. 3, paras. 2.1-2.3.
[67] *Ibid.*, p. 3. ICC made recommendations (p. 3, paras. 3.1-3.3).
[68] *Ibid.*, p. 1 and pp. 5-6. ICC made recommendations (p. 6).
[69] For relevant recommendations see A/HRC/22/13, 31 December 2012, paras. 102.2, 102.42, 102.69, 103.11.
[70] *JS3*, para. 36. *JS3* made recommendations (para. 37).
[71] *JS5*, p. 3, para. 6.
[72] SALC, paras. 3.3-3.5 (a).
[73] For relevant recommendations see A/HRC/22/13, 31 December 2012, para. 102.45.
[74] *JS5*, p. 8, para. 35 and p. 9, para. 3.
[75] *JS3*, paras. 17 and 18.
[76] For relevant recommendations see A/HRC/22/13, 31 December 2012, para. 102.46.
[77] *JS3*, para. 20.
[78] UPG, paras. 1.1 and 1.2.
[79] *Ibid.*, para. 1.3.
[80] For relevant recommendations see A/HRC/22/13, 31 December 2012, paras. 102.10, 102.47, 102.49 – 102.62, 104.1.
[81] *JS5*, p. 5, para. 20.
[82] ADF, para. 11.
[83] *Ibid.*, para. 17.
[84] *JS5*, p. 5, para. 19.
[85] RFSU, para. 12.
[86] *Ibid.*, para. 13. RFSU made recommendations (para. 14).
[87] HRW, pp. 1-2. HRW made recommendations (p. 2).
[88] *JS5*, p. 3, para. 9.
[89] For relevant recommendations see A/HRC/22/13, 31 December 2012, paras. 102.63, 102.65 – 102.67, 102.70.
[90] APG23, para. 2.1, referring to A/HRC/22/13, 31 December 2012, paras. 102.62 (Senegal), 102.63 (Togo), 102.64 (Paraguay), 102.65 (Algeria), 102.66 (Hungary) and 102.67 (Mexico).
[91] *Ibid.*, para. 2.4.
[92] ERI, para. 6. ERI made recommendations (para. 10).
[93] RFSU, paras. 15 and 16. RFSU made recommendations (para. 18).
[94] *JS3*, para. 20.
[95] For relevant recommendations see A/HRC/22/13, 31 December 2012, paras. 102.27 – 102.29, 102.30, 102.31 – 102.34, 103.17, 103.19, 103.27 – 103.29, 103.34, 103.47 – 103.49.
[96] *JS5*, p. 9, para. 40.
[97] *Ibid.*, p. 9, para. 41.
[98] HRW, p. 3. HRW made recommendations (p. 4).

[99] JS5, p. 7, paras. 26 and p.10, para. 7.
[100] JS1, p. 8, paras. 32 and 33. See also JS5 p. 10, para. 8.
[101] For relevant recommendations see A/HRC/22/13, 31 December 2012, paras. 102.13, 102.20, 102.21, 102.23 – 102.26, 103.24, 103.26, 103.30, 103.36, 103.50.
[102] JS3, paras. 22 and 23.
[103] JS2, para. 11.
[104] See A/HRC/22/13, 31 December 2012, paras. 103.17 (Finland) and 103.27 (Uruguay).
[105] JS2, paras. 8 and 9. JS2 made recommendations (para. 12). See also UPR, paras. 17, 18, 24 and 28 and JS3, paras. 28 and 29.
[106] *Ibid*., paras. 34 and 35.
[107] cdf/ACPC, para. 1.1, referring to A/HRC/22/13, 31 December 2012, paras. 102. 23 (Belarus), 102.25 (Slovenia) and 102.26 (Mexico).
[108] cdf/ACPC, para. 1.2.
[109] *Ibid*., paras. 2.1 – 2.8. See also JS3, paras. 30 and 31.
[110] JS3, paras. 22 and 23.
[111] *Ibid*., para. 26. JS3 made a recommendation (para. 27).
[112] SALC, para. 2.3 (c).
[113] *Ibid*., para. 3.1.
[114] *Ibid*., para. 3.2. SALC made recommendations (para. 3.2 (a)-(c)).
[115] ADF(Z), para. 2.2.
[116] HNFA, pp. 1-3.
[117] For relevant recommendations see A/HRC/22/13, 31 December 2012, para. 103.54.
[118] UPR, paras. 29-31. UPR made recommendations (para. 38). See also JS3, paras. 24 and 25.